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MEMO ENDORSED

November 19, 2012

Honorable Richard J. Sullivan
United States District Court
Southern District of New York
500 Pearl Street, Room 640
New York, New York 10007

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/20/2012

- Re: (1) *Princeton Digital Image Corp. v. Facebook, Inc. et al.*,
Civil Action No. 1:12-cv-06973-RJS,
Civil Action No. 1:12-cv-06974-RJS
(2) *Princeton Digital Image Corp. v. Hewlett-Packard Co. et al.*,
Civil Action No. 1:12-cv-00779-RJS
(3) *Princeton Digital Image Corp. v. Ricoh Company, Ltd.*
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Dear Judge Sullivan:

We represent Facebook, Inc. in the above referenced *Princeton v. Facebook* action. On behalf of all Defendants in the *Facebook* case, we write to request permission to file under seal the supplemental brief in support of the pending Rule 12(b)(1) motion to dismiss for lack of standing, filed by the defendants in the Hewlett-Packard case ("Motion to Dismiss", ECF No. 218).

By way of background, the Court recently granted the *Facebook* Defendants and Ricoh Company, Ltd. permission to join the Motion to Dismiss, and to submit supplemental briefing on the Motion to Dismiss (ECF Nos. 66 and 69), by November 19, 2012. The supplemental briefing includes citations to, and excerpts from, confidential materials previously sealed by the Court in the Hewlett-Packard case. (See ECF Nos. 243, 262).

In particular, the materials-at-issue, which were designated as confidential by Plaintiff, pertain to the chain of title of the patents-in-suit. Plaintiff asserted that these materials "concern highly confidential transactions that involve persons who are not parties to this litigation." (ECF 229 at 2). In this regard, Plaintiff contended that, pursuant to *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006), the confidentiality of these materials should be preserved. (*Id.* at 3-5). The Court agreed. By Order dated April 24, 2012, the Court granted Plaintiff's motion to file under seal certain portions of the Motion to Dismiss, and Plaintiff's



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brief in opposition to the Motion to Dismiss. (H-P Action, ECF No. 243). Specifically, the Court found that "Plaintiff has adequately established that the information at issue would harm Plaintiff's competitive standing, thereby overcoming the presumption of public access to judicial records." (*Id.*).

In addition, the supplemental brief includes reference and citation to the May 17, 2012 hearing on the Motion to Dismiss ("the Hearing"). Previously, the Court granted an unopposed motion by Plaintiff to redact the transcript of the Hearing, for the same reasons set forth in its April 24, 2012 Order. (See H-P Action, ECF No. 262).

Accordingly, on behalf of all of the *Facebook* Defendants, we respectfully request the Court's permission to file its supplemental brief under seal.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Drayton", written in a cursive, flowing style.

Joseph M. Drayton

cc: Ramsey M. Al-Salam, Esq.
Sean C. Cunningham, Esq.
Sten Jensen, Esq.
Heidi Keefe, Esq.
Gregory M. Luck, Esq.
Jane Michaels, Esq.
R. Terry Parker, Esq.
Christopher Schenck, Esq.
Michael V. Solomita, Esq.

Defendants' request to file under seal certain portions of their motion to dismiss is granted for the reasons set forth in the Court's Order of April 24, 2012. The parties shall file the documents at issue under seal, and shall file redacted public versions of the documents via ECF no later than Tuesday, November 20, 2012.

SO ORDERED
Date:

A handwritten signature in black ink, appearing to read "R. Sullivan", written in a bold, cursive style.

11/19/12
RICHARD J. SULLIVAN
U.S.D.J.